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| 10/790,442 | 03/01/2004 | Subash Kalbarga | 60046.0067US01 | 9788 |

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| EXAMINER |
|---|
| LIU, LIN |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| | 10/790,442 | KALBARGA, SUBASH |
| **Office Action Summary** | Examiner | Art Unit | |
| | LIN LIU | 2145 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>20 December 2007</u>.

2a)☒ This action is **FINAL**.         2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-14</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-14</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All    b)☐ Some *   c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

## DETAILED ACTION

1.    This office action is responsive to communications filed on 12/07/2007.

Claims 1-14 are pending and have been examined.


### *Claim Rejections - 35 USC § 102*

2.    The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.    Claims **7, 8 12 and 13** are rejected under 35 U.S.C 102 (b) as being anticipated

by **Boss et al. (Patent no.: US 6,157,618).**

With respect to **claim 7**, Boss teaches A system for setting and receiving time

data on a computer management device, the method comprising

a server computer having associated therewith a computer management device

(Boss, fig. 4 and 11, UserMon Server), the computer management device having real

time clock (Boss, col. 5, lines 59-64, and col. 10, lines 55-60, it is also an inherent

feature for any server computer to have a timer clock) and operative to generate health

information regarding the operation of the server computer (Boss, col. 13, lines 16-26,

noted that the UserMon server generates a response to data gathering client with a

StatusCode field, which indicates weather data was successfully processed); and

a remote computer operative to execute a web browser and a plug-in module for

use with the web browser (Boss, fig. 11, and col. 7, lines 8-30), the plug-in module

operative to receive a request to set the real time clock (Boss, col. 7, lines 8-14), to

receive a current time at the remote computer (Boss, col. 7, lines 8-3, col. 12, lines 18-

25 and col. 13, 27-32), to convert the current time at the remote computer to Greenwich

Mean Time (Boss, col. 12, lines 18-25 and col. 13, lines 27-32, noted that the GMT time

is synchronized with the local time), and to issue a command to the computer

management device to set the real time clock to Greenwich Mean Time (Boss, col. 12,

lines 52-59).

With respect to **claim 8,** Boss teaches the system of Claim 7, wherein the web

browser is operative to connect to the computer management device and to receive the

health information (Boss, col. 7, lines 8-54 and col. 13, lines 15-32), and wherein the

plug-in module is further operative to analyze the health information to determine

whether time data is contained therein (Boss, lines 15-32), to convert the time data from

Greenwich Mean Time to a local time of the remote computer in response to

determining that time data is contained therein (Boss, col. 12, lines 18-25 and col. 13,

lines 27-32, noted that the GMT time is synchronized with the local time), and to replace

the time data with the converted local time (Boss, col. 13, liens 27-32, noted that the

GMT time is synchronized with the local time).

In regard to **claims 12-13,** the claim limitations of these claims are substantially

the same as those in claim 7-8, Therefore, the supporting rationale of the rejection to

claims 7-8 applies equally as well to claims 12-13.

## *Claim Rejections - 35 USC § 103*

4.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.      The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

    1.      Determining the scope and contents of the prior art.
    2.      Ascertaining the differences between the prior art and the claims at issue.
    3.      Resolving the level of ordinary skill in the pertinent art.
    4.      Considering objective evidence present in the application indicating
            obviousness or nonobviousness.

6.      Claims 1-6, 9-11 and 14 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Boss et al. (Patent no.: US 6,157,618)** in view of **Dawson**

**(Publication no.: US 2002/0042765 A1).**

        With respect to **claim 1,** Boss teaches a method for interpreting time data

received from a server computer management device (Boss, fig. 11), the method

comprising:

        setting a real time clock on the management device to Greenwich Mean

Time (Boss, fig. 11, col. 10, lines 55-60 and col. 12, lines 11-51, noted that the UserMon

server logs the performance-parameter of the data-gathering client in GMT time),

wherein the management device is implemented in hardware communicatively

connected to a server computer (Boss, fig. 11, col. 10, lines 55-60 and col. 12, lines 11-51, noted that the UserMon);

receiving data associated with the server computer from the management device at a remote computer (Boss, fig. 11, and col. 13, lines 15-32, noted that the UserMon server issues response to the data-gathering client);

determining whether the received data includes time data (Boss, col. 13, lines 27-32, noted the GMTTime field);

in response to determining that the received data includes time data, converting the time data from Greenwich Mean Time to a local time (Boss, col. 12, lines 18-25 and col. 13, lines 27-32, noted that the GMT time is synchronized with the local time);

replacing the time data in the received data with the converted local time (Boss, col. 13, liens 27-32, noted that the GMT time is synchronized with the local time);

and a display (Boss, fig. 14, and col. 18, lines 10-12, noted the monitor 1447).

However, Boss does not explicitly disclose a method of displaying the received data.

In the same field of endeavor, Dawson teaches a method of displaying the received log data corresponding to a GMT time on a display (Dawson, fig. 1C).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of displaying the received log data corresponding to a GMT time on a display as taught by Dawson in Boss' invention in order to show the parameter-performance statistics of the data-gathering client and providing an user friendly, easy and interactive interface for users.

With respect to **claim 2,** Boss teaches the method of Claim 1, wherein setting the real time clock on the management device to Greenwich Mean Time comprises receiving a local time, converting the local time to Greenwich Mean Time (Boss, col. 10, lines 55-60), and issuing a command to the management device to set the real time clock to Greenwich Mean Time (Boss, col. 12, lines 52-59).

With respect to **claim 3,** Boss teaches the method of Claim 2, wherein the local time comprises the local time at a remote computer utilized to access the management device (Boss, col. 10, lines 55-60 and col. 13, lines 27-32).

With respect to **claim 4,** Boss teaches all the claimed limitations, except that he does not explicitly disclose a method of displaying the received data.

In the same field of endeavor, Dawson teaches a method of displaying the received log data corresponding to a GMT time on a display (Dawson, fig. 1C).

In regard to **claims 5-6,** the claim limitations of these claims are substantially the same as those in claim 1, but in a computer program and an apparatus form. Therefore, the supporting rationale of the rejection to claim 1 applies equally as well to claims 5-6.

With respect to **claim 9,** Boss teaches a web browser (Boss, col. 7, lines 8-14) and a display (Boss, fig. 14, monitor 1447).

However, Boss does not explicitly disclose a method of displaying the received data with the converted time data.

In the same field of endeavor, Dawson teaches a method of displaying the received log data corresponding to a GMT time on a display (Dawson, fig. 1C).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize the web browser to display the received log data with the corresponding GMT time the display, since the only communication protocol used in between the data-gathering client and the UserMon is HTTP protocol (Boss, col. 7, lines 8-54). The motivation to incorporate this method is to show the parameter-performance statistics of the data-gathering client and providing a user friendly, easy and interactive interface for users.

In regard to **claim 10,** the claim limitations of these claims are substantially the same as those in claim 7. Furthermore, Boss also discloses that UserMon system includes more than one data-gathering clients (Boss, col. 12, lines 43-51). Therefore, the supporting rationale of the rejection to claim 7 applies equally as well to claim 10.

In regard to **claims 11 and 14**, the claim limitations of these claims are substantially the same as those in claim 9. Therefore, the supporting rationale of the rejection to claim 9 applies equally as well to claims 11 and 14.

### Response to Arguments

7.    Applicant's arguments filed on 12/20/2007 have been fully considered but they are not persuasive.

8.    After carefully reviewing the Applicant's remarks, the following is a list of Applicant's main concerns on the previous Office Action

a.      On page 9 of Applicant's remark, Applicant argues that "Boss does not describe setting a real time clock on a server computer management device".

b.      On page 10 paragraph 2 of Applicant's remark, Applicant argues that "The management device as claimed is an independent hardware device that provides an interface for retrieving health data or other data regarding the operation of the associated server computer. The management device includes an internal real time clock used to maintain time for the device. The health data or other data regarding the operation of the associated server computer is retrieved by a remote computer from the management device. In contrast, Boss describes a UserMon server, but does not disclose a hardware device that is connected to the UserMon server and that includes a real time clock set to GMT. Similarly, because Boss does not disclose a hardware implemented management device connected to the UserMon server, Boss cannot disclose "receiving data associated with the server computer from the management device at the remote computer," as recited by claim 1".

c.      On page 10 paragraph 3 of Applicant's remark, Applicant argues that Boss fails to describe or suggest "in response to determining that the received data includes time data, converting the time data from Greenwich Mean Time to a local time," and further Applicant argues "that the conversion of local time to GMT time for recording events as disclosed in Boss is not equivalent to the conversion of GMT time to local time for display of the received data on the local computer, as recited in claim 1".

**d.**      On page 11 paragraph 1 of Applicant's remark, Applicant argues that Boss

does fails to teach or suggest "replacing the time data in the received data with

the converted local time," and further Applicant argues "that Boss does not

describe replacing the GMT received from the UserMon server at the client

computer with any other time. Additionally, because Boss does not describe

converting GMT to local time".

**e.**      On page 11 paragraph 2 of Applicant's remark, Applicant argues that Boss

does not describe or suggest "issuing a command to the management device to

set the real time clock to Greenwich Mean Time".

**f.**      On page 12 paragraph 1 of Applicant's remark, Applicant argues that Boss

does not describe or suggest "a computer management device [associated with a

server computer] having a real time clock" and further Applicant claimed argues

that "the computer management device is an independent hardware device that

provides an interface for retrieving health data or other data regarding the

operation of the associated server computer".

**g.**      On page 12 paragraph 2 of Applicant's remark, Applicant argues that Boss

"the computer management device . . . operative to generate health information

regarding the operation of the server computer", and further Applicant argues

that the "StatusCode" field taught by Boss "does not contain information relating

to the health of the UserMon server, e.g. temperatures, fan-speeds, hardware

parameters, and other operational characteristics, of an associated server".

   h.      On page 13 paragraph 1 of Applicant's remark, Applicant argues that Boss

           does not describe or suggest "a plug-in module . . . operative to receive a request

           to set the real time clock of the computer management device" and "nothing in

           Boss describes or suggests a plug-in module or module of any type operative to

           receive a request to set the real time clock of a computer management device,

           the UserMon server, or any other local or remote computer or device".


9.      In response to Applicant's argument **a,** it appears that Applicant has a specific

definition for "a real time clock", which has not been included in the claims are

presented. Therefore, the claims are interpreted by the examiner as broadly as possible

in light of the specification. In the instant case, the presently recited claim merely

requires that the real time clock to be any real time clock in GMT value. Similarly, Boss

teaches receiving and saving a log file with  performance-parameter from a data-

gathering client in GMT time (Boss: fig. 11, col. 10, lines 55-60 and col. 12, lines 11-51).

10.     In response to applicant's argument **b,** that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., "The management device as claimed is an *independent hardware device* that

provides *an interface for retrieving health data* or other data regarding the operation of

the associated server computer.") are not recited in the rejected claim(s).  Although the

claims are interpreted in light of the specification, limitations from the specification are

not read into the claims.  See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993). Furthermore, the amended claim merely recites "wherein the management

device is implemented in hardware communicatively connected to a server computer",

the examiner equates the UserMon server taught by Boss as "the management device",

which is implemented in hardware and communicative with the server itself, and the

data-gathering client as "the remote computer" in receiving data from the management

device computer (Boss: fig. 11, and col. 13, lines 15-32).

11.     In response to applicant's argument **c,** it appears that the Applicant is

misinterpreting the prior art of record by only citing a portion of the reference (e.g. Boss:

col. 12, lines 18-25). When reviewing a reference the applicants should remember that

not only a specific portion of a reference but the entire reference as whole.  In the

instant case regarding argument **c,** the examiner not only cited col. 12, lines 18-25 but

also col. 13, lines 27-32 of Boss' reference, noted that Boss discloses performing a

calculation for subtracting or adding the offset values to get GMT or local time. Another

instance of showing that the GMT time can be converted back to local time can be

found in Boss' reference col. 12, 49-51.

12.     In response to applicant's argument **d,** again when reviewing a reference the

applicants should remember that not only a specific portion of a reference but the entire

reference as whole. In the instant case, same scenario as explained in response to

argument c, the calculation for time conversion is disclosed in Boss, col. 12, lines 49-51,

and col. 13, lines 26-32, noted that the data-gathering client is able to determine and

synchronize to a universal time.

13.     In response to applicant's argument **e,** again it appears that Applicant has a

specific definition for "a real time clock", which has not been included in the claims are

presented. Therefore, the claims are interpreted by the examiner as broadly as possible

in light of the specification. In the instant case, Boss (col. 10, lines 55-60, and col. 12,

lines 52-59) discloses sending a "log request" command to the UserMon server,

wherein the request command includes logging in GMT time.

14.     In response to applicant's argument **f,** that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., "the computer management device is *an independent hardware device* that

provides an interface for retrieving health data or other data regarding the operation of

the associated server computer.") are not recited in the rejected claim(s).  Although the

claims are interpreted in light of the specification, limitations from the specification are

not read into the claims.  See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993).

15.     In response to Applicant's argument **g,** it appears that Applicant has a specific

definition for "health information", which has not been included in the claims are

presented. Therefore, the claims are interpreted by the examiner as broadly as possible

in light of the specification. In the instant case, the presently recited claim merely

requires "generating *health information* regarding the *operation* of the server computer",

wherein the "health information" could be any health information such as the

"StatusCode" field response generated by the UserMon server taught by Boss to

indicate that the *request operation* was successfully processed (Boss: col. 13, lines 16-

26). Furthermore, in response to applicant's argument that the references fail to show

certain features of applicant's invention, it is noted that the features upon which

applicant relies (i.e., "StatusCode field does not contain information relating to the

health of the UserMon server, e.g. temperatures, fan-speeds, hardware parameters,

and other operational characteristics, of an associated server".) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

16.     In response to applicant's argument **h,** again it appears that Applicant has a

specific definition for "a real time clock", which has not been included in the claims are

presented. Therefore, the claims are interpreted by the examiner as broadly as possible

in light of the specification. In the instant case, Boss (col. 7, lines 8-14) discloses

creating an instance of Internet explorer in querying the internal timer of the data

gathering client, this is substantially the same as "a module operative to receive a

request to set a real time clock".

17.     Applicant has had an opportunity to amend the claimed subject matter, and has

failed to modify the claim language to distinguish over the prior art of record by clarifying

or substantially narrowing the claim language. Thus, Applicant apparently intends that a

broad interpretation be given to the claims and the Examiner has adopted such in the

present and previous Office action rejections. See In re Prater and Wei, 162 USPQ 541

(CCPA 1969), and MPEP 2111.

18.     Applicant employs broad language, which includes the use of word, and phrases,

which have broad meanings in the art. In addition, Applicant has not argued any

narrower interpretation of the claim language, nor amended the claims significantly

enough to construe a narrower meaning to the limitations. As the claims breadth allows

multiple interpretations and meanings, which are broader than Applicant's disclosure,

the Examiner is forced to interpret the claim limitations as broadly and as reasonably

possible, in determining patentability of the disclosed invention. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into

the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

19.      Failure for Applicant to significantly narrow definition/scope of the claims and

supply arguments commensurate in scope with the claims implies the Applicant intends

broad interpretation be given to the claims. The Examiner has interpreted the claims

with scope parallel to the Applicant in the response, and reiterates the need for the

Applicant to more clearly and distinctly define the claimed invention.


## *Conclusion*

20.    **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21.     Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Liu whose telephone number is (571) 270-1447. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. L./

/Lin  Liu/
Examiner, Art Unit 2145

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145